



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,918	03/31/2004	Robert Michael Kalthoff	LDT01-GN001	5039

30074 7590 01/17/2006

TAFT, STETTINIUS & HOLLISTER LLP
SUITE 1800
425 WALNUT STREET
CINCINNATI, OH 45202-3957

EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/813,918	Applicant(s) KALTHOFF ET AL.	
	Examiner Mike Tomaszewski	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-42, 44-48 and 72-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-42, 44-48 and 72-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the amendment filed on 28 October 2005. Claims 23-42, 44-48, and 72-75 are pending and claim 43 is cancelled. Claims 23-24, 26-35, 37, 44-48, 72-73, and 75 have been amended.

Claim Objections

2. Claim 23, 45, 72, and 75 are objected to because of the following informalities:

(A) There appears to be a grammatical error within the claims – "...substantially *contemporaneous* with a donor organ being *harvesting*..." [emphasis added].

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 3626

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 23, 72 and 75 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) The term "substantially" in claims 23, 72 and 75 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. See MPEP § 2173.05(b).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 23-25, 27-37, 44-48, and 72-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis (US 2004/0068420; hereinafter Davis), in view of Seattle

Art Unit: 3626

Times ("How Does Organ Procurement Work?" Apr 13, 1991. pg. A.3.; hereinafter Seattle Times).

(A) As per claim 23, Davis discloses a method of gathering and inputting transplant donor data to a database, the method comprising ~~the steps of~~:

- (a) accessing a remote database ~~capable of~~ for storing a plurality of donor records (Davis: par. [0018] – [0019]; Fig. 1-4); and
- (b) uploading the donor record to the remote database (Davis: par. [0018]; Fig. 1-4);
- (c) wherein the act of compiling the donor record includes inputting donor data into a first set of predetermined fields comprising the donor record (Davis: par. [0012] – [0016]); and
- (d) wherein the act of the accessing the remote database includes connecting to the remote database utilizing the Internet (Davis: par. [0018]).

Davis, however, fails to **expressly** disclose a method of gathering and inputting transplant donor data to a database, the method comprising ~~the steps of~~:

- (e) transplant donor record; and

Art Unit: 3626

- (f) responding to an indication that a potential organ donor is deceased or near death; and
- (g) compiling a transplant donor record specific to a the potential organ transplant donor substantially contemporaneously with a donor organ being harvesting.

Nevertheless, these features are old and well known in the art, as evidenced by Seattle Times. In particular, Seattle Times discloses a method of gathering and inputting transplant donor data to a database, the method comprising the steps of:

- (e) transplant donor record (Seattle Times: pg. 1-2); and
- (g) responding to an indication that a potential organ donor is deceased or near death (Seattle Times: pg. 1-2); and
- (g) compiling a transplant donor record specific to a the potential organ transplant donor substantially contemporaneously with a donor organ being harvesting (Seattle Times: pg. 1-2).

Examiner notes that Seattle Times teaches compiling a donor record before, during and after the harvesting of organs. Illustrating this assertion are the following passages from Seattle Times: "...donor is identified..."; "...agency...is contacted to exchange information..."; "...physician declares brain death, and it is documented..."; "...an organ-tissue preservationist rushes to the hospital."; "...organs and/or tissues [are

Art Unit: 3626

taken] for distribution and tissue typing.”; “...hearts and lungs must be transplanted within three to five hours after removal...”; and “...agency...then matches and delivers the organ...” As such, Examiner respectfully submits it is evident that the compiling of a transplant donor record taught by Seattle Times is occurring “substantially contemporaneously” with a donor organ being harvested.

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Seattle Times with the teachings of Davis with the motivation of effectively managing transplant record information compilation and transplant process time constraints (Seattle Times: pg. 1-2).

(B) As per claim 24, Davis discloses the method of claim 23, wherein the compiling step act includes the step act of inputting donor data into at least one of a tangible expression and a digital expression (Davis: pg. 3, par. [0025] and [0031]) (As per the feature regarding *transplant* donor data, see claim 23.).

(C) As per claim 25, Davis discloses the method of claim 24, wherein the donor data is input into a series of relevant fields that include at least one of donor blood type (Davis: Fig. 3) (As per the feature regarding *transplant* donor data, see claim 23.).

The Examiner has noted insofar as claim 25 recites “at least one of transplant donor blood type, time of death of the transplant donor, cause of death of the transplant donor, transplant donor lab results, the transplant donor’s organs available for

Art Unit: 3626

transplant, age of the transplant donor, and dimensions of the transplant donor's organs available for transplant," transplant donor blood type is recited.

(D) As per claim 27, Davis discloses the method of claim 24, wherein the compiling step act includes transforming the tangible expression of the donor data into the digital expression of the donor data (Davis: pg. 3, par. [0025] and [0031]) (As per the feature regarding *transplant* donor data, see claim 23.).

Examiner notes also that the Davis system teaches that tangible data (e.g., donor form) may be faxed and then "digitized" into the database via the Davis tissue donation coordination system (TDCS) (Davis: pg. 2, par. [0019]; Fig. 2)

(E) As per claim 28, Davis discloses the method of claim 25, wherein the step of inputting donor data into a series of fields includes inputting the digital expression of the donor data utilizing at least one of a wireless data input device and a wired data input device (Davis: pg. 2, par. [0018]) (As per the feature regarding *transplant* donor data, see claim 23.).

The Examiner has noted insofar as claim 28 recites "at least one of a wireless data input device and a wired data input device," a wireless input device is recited.

(F) As per claim 29, Davis discloses the method of claim 28, wherein:

- (a) the step act of inputting the donor data into a series of fields includes the step act of providing an electronic donor data form (Davis: Fig. 3);
- (b) the series of fields include at least one of donor name, donor address, donor next of kin name, and donor next of kin address; and the electronic donor forms reside in memory on at least one of the wireless data input device and the wired data input device (Davis: Fig. 3 and pg. 2, par. [0018]).

As per the feature regarding *transplant* donor data, see claim 23.

(G) As per claim 30, Davis discloses the method of claim 23, wherein the compiling step act includes providing a computer that may access an electronic form adapted to include donor data (Davis: Fig. 2-3) (As per the feature regarding *transplant* donor data, see claim 23.).

(H) As per claim 31, Davis discloses the method of claim 23, wherein:

- (a) the step act of uploading includes uploading pure data in a the first set of predetermined fields comprising the donor record (Davis: Fig. 2-3); and
- (b) the pure data of the donor record is adapted to be extracted from the first set of predetermined fields and assimilated with a second set of predetermined fields associated with the remote database (Davis: Fig. 2-3;

pg. 1, par. [0007]). Examiner considers the actions of extraction and assimilation to be encompassed by Davis' "stand format" Structured Query Language (SQL) logic.

As per the feature regarding *transplant* donor data, see claim 23.

- (I) As per claim 32, Davis discloses the method of claim 23, wherein:
 - (i) the accessing step act includes the step of viewing at least one uploaded donor record (Davis: pg. 2, par. [0014]); and
 - (ii) the viewing step act includes viewing the donor data from the remote database (Davis: Fig. 2-3; pg. 2, par. [0018]).

As per the feature regarding *transplant* donor data, see claim 23.

- (J) As per claim 33, Davis discloses the method of claim 23, wherein the accessing step act includes connecting to the remote database utilizing the Internet (Davis: pg. 2, par. [0018]).

- (K) As per claim 34, Davis discloses the method of claim 23, further comprising the step act of signing onto the remote database (Davis: pg. 2, par. [0018]).

(L) As per claim 35, Davis discloses the method of claim 34, wherein the step act of signing onto the remote database includes the step of activating software installed on a digital device to connect to the remote database (Davis: pg. 3, par. [0023] and [0024]; pg. 4, par. [0034]).

The Examiner considers method claim 35 to represent typical client/server architecture. That is, the client (e.g., software within the digital device) is the software in the client/server architecture that may be activated to request files or services. The computer that provides services, on the other hand, is called the server (e.g., remote database).

(M) As per claim 36, Davis discloses the method of claim 35, wherein the digital device includes at least one of a wireless personal digital assistant (Davis: pg. 2, par. [0018]).

The Examiner has noted insofar as claim 36 recites "at least one of a wireless personal digital assistant, a wireless computer, a wired computer, a wireless telephone and a wired telephone," a wireless personal digital assistant is recited.

(N) As per claim 37, Davis discloses the method of claim 25, wherein the step of activating software installed on the digital device automatically attempts to connect to the remote database and download from the remote database pre-registered sign-on data particular to at least one of a procurement organization representative and the digital device (Davis: pg. 2, par. [0034]; Fig. 2).

(O) As per claim 44, Davis discloses the method of claim 43, wherein the uploading step act includes the step of facsimile transmitting the donor record (Davis: pg. 2, par. [0019]; Fig. 2) (As per the feature regarding *transplant* donor data, see claim 23.).

(P) As per claim 45, Davis discloses a method of gathering and displaying transplant donor data, the method comprising the steps of:

- (a) transmitting an electronic version of the donor record (Davis: pg. 2, par. [0019]; Fig. 2); and
- (b) displaying the donor record using the electronic version of the donor record (Davis: pg. 1, par. [0013]; Fig. 3).

Davis, however, fails to expressly disclose a method of gathering and displaying transplant donor data, the method comprising ~~the steps of~~:

- (c) responding to an indication that a potential organ donor is deceased or near death; and
- (d) compiling a transplant donor record specific to a the potential organ transplant donor substantially contemporaneous with a donor organ being harvesting.

Nevertheless, these features are old and well known in the art, as evidenced by Seattle Times. In particular, Seattle Times discloses a method of gathering and displaying transplant donor data, the method comprising ~~the steps of~~:

- (c) responding to an indication that a potential organ donor is deceased or near death (Seattle Times: pg. 1-2); and
- (d) compiling a transplant donor record specific to a the potential organ transplant donor substantially contemporaneous with a donor organ being harvesting (Seattle Times: pg. 1-2).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Seattle Times with the teachings of Davis with the motivation of effectively managing transplant record information compilation and transplant process time constraints (Seattle Times: pg. 1-2).

(Q) As per claim 46, Davis discloses the method of claim 45, wherein the transmitting ~~step~~ act includes at least one of facsimile transmitting the donor record via telephone communication and electronic data transmitting the donor record via computer network communication (Davis: pg. 2, par. [0018]; Fig. 2) (As per the feature regarding *transplant* donor data, see claim 23.).

The Examiner has noted insofar as claim 46 recites "at least one of facsimile transmitting the transplant donor record via telephone communication and electronic

data transmitting the transplant donor record via computer network communication,”
facsimile transmitting the transplant donor record via telephone communication is
recited.

(R) As per claim 47, Davis discloses the method of claim 45, wherein the compiling
~~step~~ act includes compiling the electronic version of the donor record (Davis: pg. 1, par.
[0013]) (As per the feature regarding *transplant* donor data, see claim 23.).

(S) As per claim 48, Davis discloses the method of claim 45, wherein the displaying
~~step~~ act includes displaying the donor record on a tangible medium (Davis: pg. 3, par.
[0025]). (As per the feature regarding *transplant* donor data, see claim 23.). The
Examiner considers printed reports to read on “tangible medium.”

(T) As per claim 72, Davis discloses a method of gathering and inputting donor data
to a database in the form of a pure data system, the method comprising ~~the steps of~~:

- (a) providing a series of data input options into which donor data may be input
to create an donor record (Davis: pg. 1, par. [0013]; Fig. 2-4), the series of
data input options including at least one of edit donor data (Davis: Fig.4);
(The Examiner has noted insofar as claim 72(i) recites “at least one of edit
transplant donor data, update transplant donor data, delete transplant

donor data, and submit transplant donor data,” edit transplant donor data is recited.)

- (b) transmitting the donor record to an donor database (Davis: pg. 2, par. [0018] and Fig. 2); and
- (c) availing the donor record via the Internet (Davis: pg. 2, par. [0018] and Fig. 2).

Davis, however, fails to **expressly** disclose a method of gathering and inputting transplant donor data to a database in the form of a pure data system, the method comprising ~~the steps of~~:

- (d) inputting transplant donor data into at least one of the series of data input options to create the transplant donor record substantially contemporaneously with harvesting a donor organ.

Nevertheless, these features are old and well known in the art, as evidenced by Seattle Times. In particular, Seattle Times discloses a method of gathering and inputting transplant donor data to a database in the form of a pure data system, the method comprising ~~the steps of~~:

- (d) inputting transplant donor data into at least one of the series of data input options to create the transplant donor record substantially

contemporaneously with harvesting a donor organ (Davis: pg. 1, par. [0013]; Fig. 2-4).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Seattle Times with the teachings of Davis with the motivation of effectively managing transplant record information compilation and transplant process time constraints (Seattle Times: pg. 1-2).

(U) As per claim 73, Davis discloses the method of claim 72, wherein the inputting step act includes providing a wireless storage device capable of storing the donor data within the data input options to create the donor record (Davis: pg. 2, par. [0018] and Fig. 2) (As per the feature regarding *transplant* donor data, see claim 23.).

(V) As per claim 74, Davis discloses the method of claim 73, wherein the wireless storage device includes at least one of a wireless computer, a wireless personal digital assistant, and a wireless phone (Davis: pg. 2, par. [0018] and Fig. 2).

The Examiner has noted insofar as claim 74 recites "at least one of a wireless computer, a wireless personal digital assistant, and a wireless phone," a wireless personal digital assistant is recited.

7. Claims 26, 40 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis and Seattle Times as applied to claims 24 and 37 above, and further in view of Fletcher-Haynes et al. (US 2003/0154108; hereinafter Fletcher).

(A) As per claim 26, Davis fails to **expressly** disclose the method of claim 24, wherein the compiling ~~step~~ act includes the step of inputting transplant donor history data that includes at least one of transplant donor allergies. Nevertheless, this feature is old and well known in the art, as evidenced by Fletcher.

In particular, Fletcher discloses the method of claim 24, wherein the compiling step includes the step of inputting transplant donor history data that includes at least one of transplant donor allergies (Fletcher: pg. 14, par. [0100]; Fig. 2F). Note also Davis teaches the use of a field for "other information" (Davis: Fig. 3).

One of ordinary skill would have found it obvious at the time of the invention to include the teachings of Fletcher with the combined teachings of Davis and Seattle Times with the motivation of optimizing the donor process (Fletcher: pg. 2, par. [0015]).

The Examiner has noted insofar as claim 26 recites "at least one of transplant donor illnesses or disorders, transplant donor medical treatments, transplant donor allergies, transplant donor exposure to toxic substances, transplant donor smoking habits, transplant donor drinking habits, transplant donor medications, transplant donor risky sexual behavior, transplant donor drug usage, and transplant donor blood products received," transplant donor allergies is recited.

(B) As per claim 40, Davis fails to **expressly** disclose the method of claim 37, wherein the pre-registered sign-on data particular to at least one of the procurement organization representative must match unique sign-on data specific to at least one of the procurement organization representative. Nevertheless, this feature is old and well known in the art, as evidenced by Fletcher.

In particular, Fletcher discloses the method of claim 37, wherein the pre-registered sign-on data particular to at least one of the procurement organization representative must match unique sign-on data specific to at least one of the procurement organization representative (Fletcher: pg. 13, par. [0093]).

One of ordinary skill would have found it obvious at the time of the invention to include the teachings of Fletcher with the combined teachings of Davis and Seattle Times with the motivation of optimizing the donor process (Fletcher: pg. 2, par. [0015]).

The Examiner has noted insofar as claim 40 recites "at least one of the procurement organization representative and the digital device must match unique sign-on data specific to at least one of the procurement organization representative and the digital device," the procurement organization representative is recited.

(C) As per claim 75, Davis discloses a method of gathering transplant donor data, the method comprising ~~the steps of~~:

- (a) the computer includes software to facilitate the uploading of the donor data to a remote database over a network connection (Davis: pg. 3, par.

[0023]), the remote database including a remote digital processing device, such that the remote database is accessible by an intended third party (Davis: pg. 2, par. [0018] and Fig. 2).

Davis, however, fails to **expressly** disclose a method of gathering transplant donor data, the method comprising ~~the steps of~~:

- (b) utilizing a computer operatively coupled to a scanner, where the computer has at least one electronic transplant donor form adapted to be manipulatable to input transplant donor data using at least one of keystrokes, digital handwriting, and scanned images, where the transplant donor data is inputted substantially contemporaneous with harvesting a donor organ.

Nevertheless, this feature is old and well known in the art, as evidenced by Seattle Times and Fletcher. In particular, Seattle Times and Fletcher disclose a method of gathering transplant donor data, the method comprising ~~the steps of~~:

- (b) utilizing a computer operatively coupled to a scanner, where the computer has at least one electronic transplant donor form adapted to be manipulatable to input transplant donor data using at least one of keystrokes, digital handwriting, and scanned images (Fletcher: par. [0092];

Fig. 2B), where the transplant donor data is inputted substantially contemporaneous with harvesting a donor organ (Seattle Times: pg. 1-2).

The Examiner has noted insofar as claim 75 recites "at least one of keystrokes, digital handwriting, and scanned images," keystrokes is recited.

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Seattle Times with the teachings of Davis with the motivation of effectively managing transplant record information compilation and transplant process time constraints (Seattle Times: pg. 1-2).

One of ordinary skill would have found it obvious at the time of the invention to include the teachings of Fletcher with the combined teachings of Davis and Seattle Times with the motivation of optimizing the donor process (Fletcher: pg. 2, par. [0015]).

8. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis and Seattle Times as applied to claim 37 above, and further in view of Maxwell (US 2004/0148229; hereinafter Maxwell).

(A) As per claim 38, Davis discloses the method of claim 37, wherein the digital device is adapted to utilize donor management software via wireless or wireline network

connection (Davis: pg. 2, par. [0018] and [0023]; Fig. 2) (As per the feature regarding *transplant* donor data, see claim 23.).

Davis, however, fails to expressly disclose the method of claim 37, wherein the digital device is adapted to download software additions, updates and deletions to the remote computer. Nevertheless, these features are old and well known in the art, as evidenced by Maxwell.

In particular, Maxwell discloses the method of claim 37, wherein the digital device is adapted to download at least one of software additions, software updates, and software deletions to the remote computer via wireless or wireline network connection (Maxwell: pg. 15, par. [0200]).

The Examiner has noted insofar as claim 38 recites "at least one of...software additions...software updates, and...software deletions," software additions are recited.

One of ordinary skill would have found it obvious at the time of the invention to include the teachings of Maxwell with the teachings of Davis and Seattle Times with the motivation of providing a means of readily modifying/updating software (Maxwell: pg. 1, par. 0011)).

(B) Claim 39 substantially repeats the same limitations of claim 38, and is therefore rejected for the same reasons given for that claim.

Art Unit: 3626

9. Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the collective teachings of Davis, Seattle Times and Fletcher, as applied to claim 40 above, and further in view of Mathiassen et al. (US 2004/0123113; hereinafter Mathiassen).

(A) As per claim 41, Davis, Seattle Times and Fletcher collectively disclose the method of claim 40, wherein:

- (a) the remote database is accessible via a secure network (Davis: pg. 2, par. [0016]; Examiner considers "firewall" to read on a "secure network.");
- (b) the pre-registered sign-on data is assigned by a network administrator (Fletcher: pg. 13, par. [0093]); and
- (c) the procurement organization representative must input a unique identifier prior to accessing the remote database having the plurality of donor records specific to transplant donors (Davis: pg. 4, par. [0034]) (As per the feature regarding *transplant* donor data, see claim 23.).

The collective teachings of Davis and Fletcher, however, fail to **expressly** disclose the method of claim 40, wherein:

- (d) the pre-registered sign-on data includes embedded data within the digital device; and

Art Unit: 3626

- (e) the digital device is pre-registered by the network administrator.

Nevertheless, these features are old and well known in the art, as evidenced by Mathiassen. In particular, Mathiassen discloses the method of claim 40, wherein:

- (d) the pre-registered sign-on data includes embedded data within the digital device (Mathiassen: pg. 5, par. [0060] and [0061]; abstract);
- (e) the digital device is pre-registered by the network administrator (Mathiassen: pg. 5, par. [0060] and [0061]; abstract); and

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Mathiassen within the collective teachings of Davis, Seattle Times and Fletcher with the motivation of providing improved security (Mathiassen: pg. 2, par. [0019])

- (B) As per claim 42, Davis discloses the method of claim 41, wherein the unique identifier includes at least one of a password (Davis: pg. 4, par. [0034]).

The Examiner has noted insofar as claim 42 recites "at least one of a first name, a last name, a password, and a procurement organization representative identifier," a password is recited.

Response to Arguments

10. Applicant's arguments with respect to claims 23-42, 43-48 and 72-75 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's arguments filed on 28 October 2005 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed on 28 October 2005.

(A) On page 11 of the 28 October 2005 response Applicant argues that Davis does not disclose a transplant donor record, nor a transplant donor record that is generated substantially contemporaneous with the harvesting of the donor organ.

Applicant argues further on page 12 of the 28 October 2005 response that the system disclosed by Davis does not address the condition of harvested organs or any tracking system or validation system for determining the compatibility of harvested organs with potential recipients of such transplanted organs. Applicant argues next that there is no overlap between Davis and the instant claimed invention, nor any disclosure of how the system of Davis could be utilized to read on the amended claims. Lastly, Applicant argues that Davis fails to disclose each and every one of the claimed limitations of claims.

These arguments, as stated above, are rendered moot in view of new art necessitated by Applicant's amendment.

(B) On page 13 of the 28 October 2005 response, Applicant argues that Davis fails to disclose a transplant donor record, and more specifically, fails to disclose a transplant donor record generated substantially contemporaneous with the harvesting of the donor organ.

Applicant's next argument on page 13 of the 28 October 2005 response is that Fletcher likewise fails to disclose a transplant donor record generated substantially contemporaneous with the harvesting of the donor organ. In response, Examiner respectfully avers that Fletcher does indeed disclose a transplant donor record generated substantially contemporaneous with the harvesting of tissue, albeit Fletcher does not disclose the harvesting of "organs" per se.

Lastly, Applicant argues that the combination of Davis and Fletcher fail to disclose each and every one of the claimed limitations.

Each of these arguments, as stated above, are rendered moot in view of new art necessitated by Applicant's amendment.

(C) On page 14 of the 28 October 2005 response Applicant argues that Maxwell likewise fails to disclose a transplant donor record generated substantially contemporaneous with the harvesting of the donor organ. This argument, as stated above is rendered moot in view of new art necessitated by Applicant's amendment.

As per Applicant's next argument that Maxwell is nonanalogous art to the instant application, Examiner respectfully submits that this argument is not persuasive in view

of *In re Oetiker*, 977 F.2d 1443, 1446, 24, USPQ2d 1443, 1445 (Fed. Cir. 1992).

Assuming *arguendo* that Maxwell is nonanalogous art to the instant application because Maxwell is not in the field of Applicant's endeavor, Examiner submits that Maxwell nonetheless fulfills the alternative test for determining whether a prior art is analogous, that is, whether the reference is reasonably pertinent to the particular problem with which the inventor was concerned (i.e., software management).

Applicant also argues that the combination of Davis with Maxwell fails to disclose each and every one of the claimed limitations. This argument, as stated above is rendered moot in view of new art necessitated by Applicant's amendment.

(D) At page 15 of the 28 October 2005 response, Applicant argues that Davis, Fletcher, and Maxwell fail to disclose each and every one of the claimed limitations of claims. This argument, as stated above is rendered moot in view of new art necessitated by Applicant's amendment.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art includes non-patent literature articles by Engler, Yvon ("Organ and Tissue Transplantation In The European Union:

Art Unit: 3626

Management of Difficulties and Health Risks Linked to Donors" Copyright 1995. Kluwer Academic Publishers. pg. 56-59.); Institute of Medicine ("Organ Procurement and Transplantation" Copyright 1999); and South Bend Tribune ("Information on donating organs" Aug 30, 2002. pg. 1.).

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

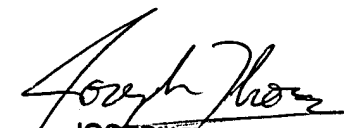
Art Unit: 3626

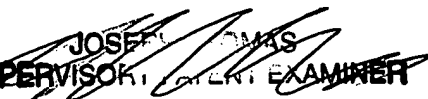
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MT

 1. 4. 06


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER